UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
LAS VEGAS, NEVADA

UNITED STATES OF AMERICA, Plaintiff, vs. KEVIN McAULIFFE, Defendant. And related cases and parties	Docket No. 2:11-CR-0365-JCM-RJJ Las Vegas, Nevada January 13, 2012 10:00:56 a.m.

PORTION OF IMPOSITION OF SENTENCE
TESTIMONY OF DR. TIMOTHY FONG

THE HONORABLE JAMES C. MAHAN, PRESIDING
DISTRICT JUDGE OF THE U.S. DISTRICT COURT

COURT RECORDER:

EILEEN STERBA
U.S. District Court

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

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MIKE MASTRANGEOLI,
RICK OEHLERKING
U.S. Probation Office

WITNESS and EXHIBIT INDEX

Witnesses

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Exhibits

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LAS VEGAS, NEVADA FRIDAY, JANUARY 13, 2012

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PROCEEDINGS BEGAN AT 10:00:56 A.M. AND

NOT TRANSCRIBED UNTIL 10:12:54 A.M.

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DR. TIMOTHY FONG'S TESTIMONY BEGAN AT 10:12:54 A.M.

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THE COURT: So, Dr. Fong, if you would come forward and be sworn please, sir.

TIMOTHY FONG, DEFENDANT'S WITNESS, SWORN

THE CLERK: Please have a seat. Would you please state your full name, spell your last name for the record.

THE WITNESS: Fong, F-O-N-G.

DIRECT EXAMINATION

BY MS. STANISH:

Q Dr. Fong, would you please briefly explain what you do for a living?

A I'm sorry?

Q Would you please explain what you do for a living, briefly?

A Sure. Currently I am an Associate Professor of Psychiatry at the UCLA School of Medicine. I am the co-director of the UCLA Gambling Studies Program. A gambling studies' program is a research and treatment program to understand the causes of pathological gambling or gambling

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addiction as well as to provide treatment to patients with gambling addiction and affected individuals of gambling addiction.

Q And did you have the opportunity to evaluate Monsignor McAuliffe?

A I did.

MS. STANISH: Your Honor, may he take a seat for now? Since we're --

THE COURT: Oh, sure. Yes. Sure, that's fine.

BY MS. STANISH:

Q Yeah. Why don't you have a seat, you're bugging me there. And what was the result of your evaluation of Monsignor McAuliffe?

A So my professional medical opinion of his diagnosis are number one, pathological gambling; number two, major depressive order; and number three, social anxiety disorder.

Q Let's start --

THE COURT: I'm sorry, say that again? What is the third one?

THE WITNESS: Social anxiety disorder.

THE COURT: Thank you.

BY MS. STANISH:

Q Let's define each of those, maybe starting backwards with social anxiety disorder.

A Okay. So after my evaluation of Father McAuliffe, those

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three psychiatric diagnoses I came to, based on my clinical experience as well as my interview and evaluation of the signs and symptoms that he would report. The social anxiety disorder is a psychiatric disorder characterized by elevated levels of anxiety around social situations. Fear of criticism, fear of scrutiny that creates a lot of internal anxiety and distress about doing things in a social situation.

Q And what about the depression?

A The major depressive disorder I characterize as a mood order whereabouts a person will experience bouts, signs and symptoms of depressive moods; cognitive distortions about mainly negative views of themselves and the world; coupled with impairments over sleep, concentration, memory, and other associated symptoms.

Q Now, if I have time I'll come back to those two disorders but I want to spend most of your time talking about gambling addiction. What is a pathological gambling addiction?

A So pathological gambling or other -- otherwise known as compulsive gambling or gambling addiction is a psychiatric condition or as we say in our community, very much a brain disease. It's characterized by the loss of control over gambling, a preoccupation with gambling. But very simply it's ongoing and continued gambling despite adverse

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consequences. Pathological gambling is a brain disease and our work and a lot of our work in our field has shown that it's no different than other medical illnesses like diabetes, cancer, asthma. There are biological, psychological, and social reasons and causes, if you will, as to why that behavior happens. Over the last 15, 20 years we've been able to determine genetic components of gambling addiction, biological components of gambling addiction, and really map out the course of the illness of the behavior.

Q Could you elaborate a bit more on the biological aspect of the pathology?

A Sure. So in terms of pathological gambling, in terms of the biology what we know is that inside the brain there's certain regions of the brain of pathological gamblers that, for lack of a better word, are not functioning as they should be. These are regions that control behavior. The front part of our brain or the brakes in our brain if you will are essentially broken or dysfunctional. Couple that with a -- the parts of our brain that determine urges, cravings, impulses to do certain things. So very simply the way we describe it neurobiologically with a gambling addiction that the brakes are broken and the gas on the pedal to seek out that behavior is also broken. So you put those two biological processes together, drive, pathological drive, an urge to seek out gambling coupled with the loss of control

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over the gambling behavior creates the situation of gambling addiction.

Q Is the brain of a pathological gambler different from the brain from someone who does not have such a pathology?

A Well, what we know is that the brain is structurally and functionally different. It's not to the, quote, "naked eye," where if you were to do a biopsy or look inside it you would see a region of the brains that are missing or damaged or scared over. But we now know through neuro-imaging work that we can tell and through some other neurochemical work, that we can tell that the brain is physiologically different. Different ways of reacting to neurochemical, different levels of neurochemical, and all of this is steeped in biology and science. It's not steeped in will or morality or willpower. It's how a person's brain is made and it's how a person's brain becomes after years of gambling. For instance, we know that drug and alcohol addiction causes brain damage to the brain. You know, people take drugs, drugs damage the brain. We've done research to show that brains of pathological gamblers are impaired, areas of memory, attention. Performance areas that you would not expect to be damaged but actually are and even though there are no drugs or abuse that the person has been exposed to.

Q Now I want to discuss specifically your observations and evaluations of Monsignor McAuliffe. How does the other two

disorders that you describe factor into the gambling addiction that he has?

A Well, in my opinion and based on my clinical experience, pathological gambling oftentimes coexists with other psychiatric disorders, like depression, anxiety, bipolar disorder. What happens very simply is that when people are struggling with these diseases they have impaired feelings and mood states, feelings of low mood, feelings of impaired self-esteem, feelings of anxiety, insomnia, impaired concentrations. And oftentimes as people go throughout their daily lives feeling that way they turn to certain things to try and cope with that. With some people it's drugs, others it's alcohol, some people it's work. If I recall his case, I saw that gambling served as a self-medication, of you will to help manage feelings of depression and anxiety, feelings of inadequacy and self-esteem and feelings of perfectionism that couldn't quite be achieved. So the gambling became a way of coping with stress, coping with anxiety, coping with feelings of depression, and sadness.

Q Okay. Could you explain to us, as I understand it part of the diagnosis of gambling addiction may involve the commission of crimes, could you please elaborate on that component of the diagnoses or the criteria I should say of gambling addiction?

A Okay. So to diagnosis with someone with pathological gambling we have 10 scientifically validated criteria that we apply to say whether or not they actually met that criteria or not. Father McAuliffe's case, he met 10 out of the 10 criteria. One of the criteria is a criteria related to crime where it states very clearly that the patient will have committed crimes in order to finance ongoing gambling behaviors. So when we look at clinical populations of pathological gamblers, we know that about 25 to 30 percent of all gamblers at some point during their gambling addiction will commit a crime to finance their gambling. What that crime is really depends. Sometimes it's stealing. Sometimes it's insurance fraud. Sometimes it's robbery. Sometime it's selling, you know, drugs to get money. Sometimes it's prostitution. But it's very common in the condition of gambling addiction for crimes to occur during the course of the disease. It's the only diagnosis -- it's the only psychiatric diagnosis that I'm aware of where the actual symptom of the disease is criminal offense.

Q Did you have the opportunity to read the PSI as well as the sentencing memorandums in this case?

A I did.

Q I want to address a few issues out that in light of what you've just explained to us. This is $650,000 that was taken from the church. This is church money. How is it this --

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that this man, who's very intelligent, how is it that he just couldn't stop it? Why did this go on for so long?

A So there's several opinions I have on that question. And number one, pathological gambling is a hidden addiction. It's unlike drugs and alcohol where you can see it, you can smell it, you get a sense if something's not right. So I've had patients show up into my office that came straight from the casino and I had no idea. So the signs and symptoms of gambling addiction are hidden away. You don't see it. You can't detect it. No one, quote, "overdoses" at a point where they end up in the emergency room. So with that mind, I think it's very -- it is very common for the signs and symptom to go on for years. We know that for instance from the time people start having problems controlling their gambling to the time that they present to treatment, on average is about 10 to 12 years. You think about that from other medical illness. From the time you develop chest pain to the time you see your doctor to evaluate for heart disease, it's not 10 years. It's much less. It's a matter of weeks. So that's number one.

Number two, I look at the total amount of the amount of the offense of $650,000 and I think about how can that happen? In our treatment clinic we have a wide range of folks who've stolen upwards of 40, 50, 60,000. And the largest amount I've had is someone who stole over 12 million

dollars in the course of his gambling addiction. This particular situation, why I believe criminal offense happens, it has to do with, number one, untreated gambling addiction signs and symptoms. The urge to gambling, coupled with the loss of control and coupled with an opportunity to -- the constant opportunity of cash being available.

A lot of my patients don't have cash that's in front of them. They have to borrow against their credit card. They have to write bad checks. They have to rob from somebody at gunpoint. But if they were given the opportunity to have cash right in front, oftentimes the signs and symptoms are of the disease, the urges, the compulsion, the loss of control will overwhelm the other parts of the brain functioning that says, no, you shouldn't do this. So the way I was thinking about this is that if I said to anyone in this room don't fall asleep for the next seven days, and if you fall asleep you're breaking the law. We know that none of us would be able to manage that because these are natural biological processes that we can't fight off. That's how gaming addiction is, is the urges, the compulsions coupled with the loss of control people can't fight off. They can't shake it. As much as they want to, as much as they say this is wrong, as much as they say, I don't want to gamble because I don't even enjoy it, the compulsion, the urge is there.

Q Why did he stop or can you render an opinion I should

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ask as to why he stopped when the FBI confronted him in May of 2011?

A You know, this is actually a very interesting point and you see this a lot, is that as patients are going through the course of their gambling addiction they try and stop on their own, it doesn't work. They try and say this is it, this is the last bet I'm going to make for a month or two months, and they can't. And that's the actual disease symptoms again.

Oftentimes that's why interventions make sense. When family members step up, when friends step up and say, you know what, what you're doing, we're concerned about your behavior, you need help. Oftentimes that's enough to get people to stop.

Throughout my clinical experience I've had a lot of patients from the first appointment that they see me, they've never gone back to gambling again. So this is a disease where, although it is a chronic relapsing disease, that many times it's not until people are faced with, kind of a crisis situation or a watershed moment or you can call it the tipping point in their lives where the motivation far now exceeds the symptoms of their actual disease. So I've seen this time and time again where patients have struggled for a long time trying to manage it themselves. But when an external force is placed upon them, family member, the secret's out, or in this case the -- the very real situation

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of federal prosecution, that oftentimes is able to keep people's behaviors in check for a short period of time.

Q What is Father McAuliffe's prognosis in your opinion?

A So the way to first define prognosis is what is the likelihood of this condition returning or worsening or getting better? So at this time the way I -- my opinion is that with ongoing treatment and monitoring and support, three very important things, I believe Father McAuliffe's prognosis will be good. In the sense that the likelihood of return to gambling or the likelihood to return to gambling addiction would be low. If I had to put a percentage on that, it would just be a guess. But the way we think about it is the other way. If people stay in treatment -- this is from our scientific studies, the longer people stay involved in treatment the less likely they will return to gambling. So much of the prognosis is really based on the ability to participate in treatment, participate in recovery activities that will determine whether or not gambling addiction will return.

Q And what treatment would you recommend for Father McAuliffe?

A So for specifically for Father McAuliffe I would recommend ongoing first 12-step support from Gambler's Anonymous. I would recommend individual psychotherapy with a professional who has gambling treatment experience.

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Unfortunately, one of the things in the mental health field is that a lot of therapists don't have any experience with gambling addiction and it would be like me trying to do surgery on somebody. It's just not going to work well. Then I would recommend what we call ongoing monitoring. Now in gambling addiction there is no urine drug screen to tell whether someone has been gambling recently or not. So instead what we do in our treatment program is we recommend what we call peer support or surprise visits, if you will. That's someone from the treatment team to go in and look at the home, look at the financial records, look at how one is spending their time to determine whether or not quality of life and recovery activities are really taking hold.

And then lastly I would strongly recommend that Father McAuliffe be monitored and treat -- monitored along by an addiction psychiatrist, someone with expertise in handling of addictions as well as possibly for medication to help restore and maintain recovery in a healthy way.

Q Do you know whether or not those services are available in the federal prison system?

A Based on my experiences, those services are not available in federal prison, particularly to highly specialized knowledge of how to treat gambling addiction.

MS. STANISH: That's all the questions I have. Doctor, is there anything you believe Judge Mahan should know

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that I have not covered with you?

THE WITNESS: I think a couple key points I would really emphasize in addition to gambling addiction being a brain disease is that the -- when I first took on this case and look at from, you know, objective standpoint the first thing that really struck [sic] to me was just the level of the offense, the shear number and the length of time. And then after sitting down, reviewing the record, and talking to Father McAuliffe, it made sense to me that this was, again, very similar to what we see all the time in our treatment program and clinics. A case of an addiction that goes a long time without the signs and symptoms of being seen. A case where interventions are not brought on by people around, but even more so the shame and stigma of having gambling addiction in of itself. So a lot of time patients say to me the hardest thing for me was to go say I have a problem and tell someone. This isn't like cancer. This isn't like heart disease. This isn't like diabetes where you can tell a family member or friend. This is addiction.

I think coupled with the position that Father McAuliffe was in, being a leader in the community, I think that made the stigma much, much more harder. I think that in our -- and I know that our clinical experience when we work with doctors, lawyers, CEOs, people in positions of wealth and resources and leadership, the stigma approaching asking

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for help for a disease like addiction, gambling addiction is much, much higher. But that's also not surprising to me why help wasn't sought. Because very often professionals like yourselves, doctors, when we're impaired we're the worst patients. We're the ones that don't seek out help or reach out for help. And so I think that was a theme that I picked up was why he didn't seek out help sooner and those were the reasons I would highlighted.

MS. STANISH: Thank you, sir.

THE COURT: All right. Thank you.

Ms. Brown, cross-examination.

MS. BROWN: Thank you.

CROSS-EXAMINATION

BY MS. BROWN:

Q Good morning, Dr. Fong. How are you?

A I'm good, thank you.

Q Would you agree that when making a psychiatric diagnosis it's helpful to have as much information as you possibly can about the person?

A Correct.

Q And it's important to have reliable information?

A Sorry, I didn't hear?

Q It's important to have reliable information, not only as much information as you can but reliable information?

A Correct.

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Q And in dealing with someone who potentially has mental health issues that individual himself or herself may not be the most reliable source of information?
A Correct.
Q So that's why in many instances you might want to seek out information from other sources, other records, other individuals that may know that person, correct?
A Correct.
Q But in that case -- in this case I should say you did not do that or you did not have the opportunity to do that, is that correct?
A I reviewed the treatment documents from Robert Hunter's treatment program but I did not interview anyone else who knew Father McAuliffe other than counsel.
Q Correct. So you interviewed -- to be clear, you interviewed [sic] the presentence investigation report that was prepared by probation, correct?
A Correct.
Q You interviewed [sic] the plea agreements --
A Correct.
Q -- that was filed in this case, and you interviewed [sic] the treatment records from the Problem Gambling Center, correct?
A Correct.
Q And those records consisted of two documents, I believe

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that were essentially applications or the information forms that are filed out when Mr. McAuliffe went for treatment on June 20th, and they were filed out by himself, it contains his address and his information. Do you recall that?

A Yeah, I recall that. Yes.

Q Okay. And it contains his individual therapy notes, his session notes filled out by Linda Creel [phonetic], his therapist?

A Correct.

Q Correct?

A Correct.

Q From about -- I believe it was July through November -- July, August through November, does that sound accurate?

A Yeah. Correct.

Q And it also contained group therapy session notes filled out by an individual most of the time named Gordie, correct?

A Correct.

Q Okay. And that -- those are the documents that you reviewed?

A Yes.

Q So the information that's contained in those records is information that's provided by the defendant, by Mr. McAuliffe, right?

A Correct.

Q He's the person reporting?

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A Okay.
Q Okay. So once again the information that you have from all the records and from meeting with Mr. McAuliffe is all self-reporting information?
A Correct.
Q Perhaps sometimes filtered through the eyes and ears of the therapist but otherwise himself. Okay. You did not have any of his medical records to review?
A Can you define medical records?
Q Apart from the Gambling Problem Center, you didn't have any medical records, is --
A No, I did not.
Q Okay. Any work records?
A No.
Q All right. And I don't want to belabor the point but you didn't talk to any supervisors, co-workers, any of those individuals who might have known Father McAuliffe or Mr. McAuliffe over time?
A No.
Q You knew that he lived with an individual for a number of years, Father Vivona?
A Yes.
Q And you didn't speak to him?
A No.
Q All right. Did you speak to his attorney though?

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A Yes.
Q All right. How many times did you talk to her?
A Approximately maybe a dozen times over the phone.
Q A dozen times?
A Yeah.
Q All right. And you weren't provided any of the discovery or any documents in this case, is that right?
A Can you -- no, not like the arrest report or things like that. No. No.
Q Any of the information pertaining to the charges or the statements with the -- that Mr. McAuliffe made as the investigation was going on, any of -- any of those types of documents, right?
A I'm not aware of those formal documents, no.
Q And you didn't speak with his sister who -- I believe they've been estranged since 2006, but she's had a relationship with him all his life, right?
A Correct. I did not speak with her.
Q All right. Now how is it that you came be involved in this case? Who reached out to you or you to them initially?
A I received an email from Margaret Stanish basically stating that she was looking for an expert opinion in this case and I responded to that email and called her. We talked about the particulars.
Q And may I assume there's a fee arrangement?

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A Correct.
Q And can you just tell the Court what that is?
A So my traditional standard fee is $400 an hour for expert-related matters. For this particular case I reduced that fee to $250 per hour.
Q And is that in court or out of court?
A All of it. For any hour that I work related to this case I'll charge $250.
Q And does that include phone consultation?
A It does, but I didn't keep track of all the phone calls on a ledger or anything so I just put a general number to the phone calls.
Q And travel time?
A And travel time. For instance, a full day like today I'll say it's an eight-hour day and that's inclusive of travel time and just charge 250 an hour for the eight hours.
Q So can you give just a rough approximation of the hours that you have into this case?
A Approximately -- including today?
Q Yes.
A I would say it would be about -- closer to 30 hours total.
Q Now you've stipulated to your -- your training and experience in gambling addiction but I did want to ask, have you ever testified as an expert in Federal Court pertaining

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to gambling addiction --

A I have.

Q -- in a criminal case?

A I have, yes.

Q And how many times is that?

A At least once. There may have been some other federal cases that I can't recall off the top of my head because, you know, all the courtrooms look the same to me. But I can certainly recall once -- actually now that I've been talking I can recall two clear times in Federal Court that they related to gambling addictions.

Q In a criminal case?

A I can name -- yeah. Yes, correct.

Q In a criminal case. And how long ago was that?

A The first case was 2004 and the second case was in 2009.

Q 2009.

A Yeah.

Q And were you testifying for the -- for the prosecution or for the defense?

A For the defense on both cases.

Q And speaking to your prior testimony in criminal cases as it relates to gambling addiction, have you ever testified for the prosecution or have you always testified for the defense?

A I have always testified for the defense but I've never

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been asked to testify by the prosecution.

Q All right. I'd like to speak now to something you said a little bit earlier and talk a bit more about the information that you relied on in coming to the diagnosis that you did. You talked earlier about compulsive gambling or pathological gambling being a brain disease. So you stated that you didn't obtain any medical records of the defendant and you were talking about the biology of the brain being different for pathological gamblers and so is that something -- it sounded as though it was, that neurologically the brain is different for pathological gamblers. So it is a measurable objective test that can be performed in order to see whether someone may have a pathological gambling issue, is that accurate? Is that what you were saying?

A I would say it's mostly accurate. You know, we wish we had standard reliable medical tests for all mental illnesses, like we do for say heart disease or diabetes or high blood pressure, but we don't. The reasons we know that there are these biological changes come through scientific research, where we can take, for instance, a group of patients we know to have this condition of gambling addiction compared to a group of folks who don't have it, and look at differences biologically through blood tests or through brain scan, neuro-imaging and things like that. But when it comes to the

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clinical setting the technology is not yet there for us to demonstrate that, you know, like in Star Trek, you know, you can just do a quick scan and say, this is someone who has a diagnosis. We don't have any blood tests, we don't have any, you know, DNA tests or anything like that that we can use to definitively diagnose someone with that specific disorder.

Q So if it's not available in a clinical setting, in what setting has that research been performed?

A Primarily only in the research setting so -- and the research settings are highly controlled scientific experiments done in the lab or under very controlled circumstances so you know exactly what's happening between different groups that you're studying.

Q And those are published peer reviewed research?

A Yes, absolutely. So -- and then as the research occurs then you take your scientific findings, you submit it to a journal, and it'll be published in a peer reviewed research, which then adds to the knowledge base of how diseases are occurring and what causes them.

Q All right. But there are other objective tests. We've already talked about how all the information, at least so far that was relied on by you, was subjective. In other words, self-reported by the defendant. There are tests that are available, such as the MMPI that have, in laymen terms, what's known as sort of built in lie detectors and you can

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get a great deal of information from those types of tests, would you agree with that?

A Some of them. Like for instance MMPI is a personality inventory, it's not so much to diagnose clinical conditions. For things like pathological gambling we have structured interviews and we have validated questionnaires that we know are -- that we can use. But then there's also the clinical experience test that we use where in the 12 years I've been working with gamblers there are times when someone comes in and they can clearly tell that their signs and symptoms are made up. That they're --

Q But that's totally subjective, isn't it, Doctor? That's just you and the patient having a conversation, in your opinion that he or she suffers from depression or social anxiety, there's no objective measurement as measured against other individuals, that that's true or not true, correct?

A Correct. And that's true for all of our mental illnesses. There's not a single mental illness except -- with the exception of perhaps mental retardation. Everything -- you use an objective test to determine that this person does or does not, quote, "have that illness."

Q Well, that may be true but isn't it also true that for example the MMPI which is widely administered measures such things as depression, hysteria, psychopathic deviate scale,

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mania, social introversion, and other measures that can inform a therapist about such issues such as you diagnosed the defendant with?

A That's correct and that all falls under the term of neuropsychological testing to -- and MMPI is certainly one of those test instruments that can be used. And again, it isn't so much for diagnosis as it for identifying signs and symptoms of particular areas of pathology that could then lead the clinician or the examiner to then prob for more symptoms and -- that would fit the mold of the -- of disease. So it is, it's a wonderful tool, it's a wonderful test to be used.

Q And so all I'm asking is that that was not administered either by you or by Dr. Hunter?

A It wasn't administered by myself. I'm not trained in doing that. I don't know if Dr. Hunter did or did not.

Q But in his -- in your review of the Problem Gambling Center records there was no reference to any objective test being administered, is that true?

A There is no reference to --

Q Other than the DSM test and the South Oaks Gambling Screening Test?

A Correct. Correct.

Q Which I'll get to in a moment. Okay.

A Correct.

Q Now you met with the defendant the one time, correct?
A Yes.
Q And you met with him for 2.5 hours?
A Correct.
Q Now was that 2.5 hours actual discussion time or did that include filling out paperwork?
A No, that was all pretty much face-to-fact interview time.
Q And so the meeting, to be clear, was after he had pleaded guilty and was awaiting sentencing here today?
A Correct.
Q In fact, it was -- I believe it was -- was it last month or in November that you met with him?
A I don't have the actual date off the top of my head but --
Q Early December, perhaps?
A -- it was -- I think it was --
Q December 2nd, does that sound correct?
A That sounds correct, yes.
Q All right. And were just the two of you there at that meeting?
A Yes.
Q And after that meeting you created a report that was to be provided as a summary of your meeting, correct?
A Correct.

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Q And your diagnosis and your prognosis?
A Correct.
Q Thank you. Is this report that you created the first and only report that you created?
A Yes.
Q There were no other drafts of it?
A What date do you have on that one?
Q I have a date of December 28, 2011.
A Yeah. I mean there were drafts that I created and then depend if I -- once I got additional records to put additional facts in there and then saved over the same version of that --
Q What did -- what additional records?
A I think it was the presentencing. There was an updated presentencing memorandum that came right before that if I recall.
Q Did you make any revisions based on anything other than review of the PSR?
A No, it was just a little bit tightening up the details, ensuring the accuracy of some of the details.
Q Now, I noticed in your report that it indicated on page 7 -- and I don't know if you have access to that, that -- well, let me as you first if you can agree with this statement. Here in Las Vegas we have a lot of tournaments, we have professional poker players so would you agree that

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not everyone who gambles a lot is necessarily a pathological gambler?

A Correct.

Q Okay. And some of those people who gamble a lot may even play video poker? There are tournaments for that, are you aware of that?

A Yes. Mm-hmm.

Q Okay. So just because someone gambles a lot doesn't necessarily mean they're going to fit the criteria as a pathological gambler, correct?

A Correct.

Q All right. Now your report on page 7 indicates that a questionnaire was administered and that's the NODS Gambling Screen. Is that the same thing as the DSMV-IV 10-question test that's administered to determine if someone meets the criteria?

A Yes, it is.

Q Okay. And you also testified previously that you relied on the records from, again, The Problem Gambling Center, correct?

A Correct.

Q Okay. And I know I'm skipping around just a little bit, but you reviewed the PSR you said?

A Yes.

Q And in the PSR is a statement by Dr. Robert Hunter, who

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again is -- directs The Problem Gambling Center, and in that he states that there's no possible doubt in his mind that Mr. McAuliffe is a pathological gambler, correct?

A Correct.

Q No possible doubt in his mind. And he bases that on administration of the test, the DSMV-IV TR Test, and says that Mr. McAuliffe got 10 out of 10 positives on that test, correct?

A Correct.

Q And that's contained in these records, the results of that test are contained in these records, correct, that you reviewed?

A Yes.

Q Okay. And he also says that -- well, let me start with that first. So you reviewed these, correct?

A Correct.

Q All right.

MS. BROWN: Your Honor, may I approach.

THE COURT: Yes, ma'am.

BY MS. BROWN:

Q I'm going to hand you what's been marked for identification as Government Exhibit Number 1, which is the South Oak Gambling Screening, correct?

A Correct.

Q And back a few pages is the DSMV 10-question?

A Correct.
Q Correct? Okay. And you're following that?
A Sure.
Q Now looking at the DSMV-IV test, the 10 questions, Dr. Hunter said that Mr. McAuliffe got 10 out of 10 questions, answered those affirmatively. Is that true?
A I'm sorry, say that again?
Q Dr. Hunter said that when Mr. McAuliffe answered the questions on the DSMV questionnaire he answered 10 out of 10 questions affirmatively?
A Correct.
Q Is that true?
A Based on Dr. Hunter's that was -- that was his opinion, yes.
Q It's not an opinion, Dr. Fong, the test is right in front of you. I'm asking you, did he answer 10 out of 10 questions affirmatively or not?
A Well, on this questionnaire, no, he answers five out of 10.
Q In our -- is this test from The Problem Gambling Center records?
A So the way I -- opinion on this --
Q It's a yes or no.
A Yes, this is five out of 10.
Q And this record, this test is from The Problem Gambling

Center records that you were provided by Ms. Stanish, correct?

A Correct.

Q So he didn't get 10 out of 10, he got five out of 10?

A I don't know what Dr. Hunter based his 10 out of 10 on, from -- I don't know if he based it out of -- this particular questionnaire or if he administered something else.

Q Well, okay. And I don't mean to argue with you, but again, this is the DSMV for 10-question questionnaire that is in The Problem Gambling Center records?

A Correct.

Q And there's no other questionnaire contained in The Problem Gambling Center records that you were provided that shows 10 out of 10, is there?

A No.

Q Okay. So then going also to Dr. Hunter's report he also says, and I have it if you need to see it --

A Okay.

Q -- to refresh your memory. He said in the PSR letter that -- let me find it. That Mr. McAuliffe scores at the very top of the South Oak Gambling Screen, a formal psychological test for this disorder referencing gambling addiction, correct?

A Correct.

Q Okay. So if you turn to the first page of the exhibit

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is the South Oak Gambling Screen and you can see that Mr. McAuliffe's name is there, the date on that is 6/20, 2011, correct?

A Correct.

Q And in flipping through there if you go to the score sheet, and you're familiar with this test, are you not?

A Yes.

Q How many -- what was the score on this?

A So on the score sheet here there's a blank on the total points --

Q Mm-hmm. But you can add it up, correct?

A Yeah. Absolutely. One, two, three, four, five, six, seven -- a total score of seven.

Q And what's the maximum score on this test?

A Twenty.

Q So he got a 20 out of seven [sic]. Would you, in your opinion say that a seven out of 20 is at the very top of the South Oaks Gambling Screen?

A No, I would not.

Q Thank you.

MS. BROWN: Your Honor, I would like to admit that exhibit.

THE COURT: Any objection?

MS. STANISH: I'm sorry, I didn't hear her.

THE COURT: She wants to admit the exhibit, Exhibit

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1.

MS. STANISH: Yeah. No objection.

THE COURT: All right. The same will be admitted. Thank you.

(Plaintiff's Exhibit 1 admitted)

BY MS. BROWN:

Q Now in order to qualify as a -- the borderline between pathological gambler and not a pathological gambler, for example on the DSM-IV test that had the 10 questions, if he'd scored a four rather than a five you wouldn't have diagnosed him as a pathological gambler, would you?

A Well, technically no, but technically, yes. So the way I would explain that is when the DSM-IV is written they approached it as a categorical statement, so if you had five or more you, quote, "had it." But research since then had now indicated that even if you have one, two, three or four criteria out of 10 you do meet criteria for a sub -- another kind of gambling addiction we call problem gambling or a lesser form of it. But it's still a significant clinical issue. But it used to be and that's how I learned it when I was in residency was that if you had one or two criteria out of 10 you didn't, quote, "have a gambling addiction." But research since then has now indicated that you do still have a form of gambling addiction it's just not as severe as the diagnosable one.

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Q Let me put this way, five is on the margin?
A Five is not on the margin. Five is a --
Q Five -- to diagnosis someone as a pathological gambler they have to have a score of five or more, correct?
A Correct.
Q And to diagnosis someone as a pathological gambler for the South Oaks Screening test they have to have a score of five or more, correct?
A Correct.
Q Okay. So -- all right. Thank you. Now another thing that I noticed in looking at The Problem Gambling Center records, in filing out the application is that the defendant presented to The Problem Gambling Center with two issues. He presented with not only gambling but he also presented with a problem with spending. And this was in his own words and I have this if it would -- if you need to see it to refresh your recollection. But again, you did review these records. And he -- what he wrote was that he had a problem with spending, that he buys too much of something or things not needed. Do you remember that?
A I do remember, yes.
Q And now you're aware, through your review of the PSR, that the defendant reimbursed himself from the church for personal expenditures like plane tickets and things like that, right?

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A Correct.
Q But that's not the same, would you agree, as a compulsive spender? Someone who buys too much of things or things that are not needed?
A Correct.
Q How is that accounted for in your diagnosis of compulsive gambling?
A Well, compulsive shopping or compulsive spending is another separate behavioral addiction.
Q So it's not?
A It's not.
Q All right.
A Yeah.
Q And nowhere in his letter to the Court does Dr. Hunter mention anything about compulsive spending, does he?
A I don't recall it in the letter, no.
Q Now in reviewing the individual counseling session notes compulsive spending isn't mentioned as something that's being addressed in those either is it?
A No.
Q And as a matter of fact in reviewing the individual counseling session notes something that stood out to me is that it doesn't appear that treatment for gambling addiction is something that's being addressed in counseling. Do you recall that?

A No, can you expand on that? I'm not sure I understand that point --

Q In reviewing -- you reviewed in order to make your diagnosis, your prognosis, your treatment recommendation, and so forth reviewed, I assume, the individual counseling session notes from The Problem Gambling Center, correct?

A Correct.

Q And in doing that it would have been important to know what was discussed in therapy, correct?

A Correct.

Q And did you notice whether in these treatment session notes Mr. McAuliffe ever discussed gambling addiction with his therapist?

A Do you have a specific session or a specific note that you would like me to opine on?

MS. BROWN: Judge, may I approach the witness?

THE COURT: I'm sorry?

MS. BROWN: May I approach the witness?

THE COURT: Yes, ma'am. Yes, ma'am.

(Off-record colloquy of Counsel)

THE WITNESS: Okay.

BY MS. BROWN:

Q Do you see --

A Okay. So --

Q -- do you see any reference in those notes that during

his individual therapy session at The Problem Gambling Center Mr. McAuliffe was getting treatment for gambling addiction?

A Well, when I look at these notes these are fairly typical treatment notes that happen during the course of sessions documenting what was talked about, documenting, you know, what's on the mind of the patient.

THE COURT: Listen to her question and answer the questions.

BY MS. BROWN:

Q Do you see -- do you need me to repeat it?

A Yeah. I mean it's a little confusing to me. Yeah. But please do.

Q When you look through the individual treatment session notes do you see reference in there to the therapist, who's making the notes, having discussion about gambling addiction or treatment for gambling addiction?

A Well, I see treatment for gambling addiction in these notes.

Q Where do you see that?

A I see them just based on the documentation of the therapist describing what was talked about or what --

Q And --

A -- the symptoms that the person was discussing.

Q Isn't it true, Dr. Fong, that each and every single

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individual therapy session the defendant is focused on his sentencing and his legal proceedings?

A I'll say yes; that's true. Yeah.

Q And can you point to me anywhere in the records where gambling addiction or talking about gambling treatment is referenced in any one of those session notes?

A "September 27th, is working his program plus the three GA meetings a week. Is grateful for ongoing therapy at the PGC." So to me that --

Q Okay. That's talking about him getting treatment somewhere else. Does it show that he's working with his therapist to get gambling treatment?

A Working on staying in the moment, volunteering more to get out of self-fear. So to me that evidence of gambling treatment or treatment for gambling addiction.

Q Okay. Anything else?

A "Client working on staying in today's moment." That's a statement where "Client working on willingness to change, out of denial, connecting with his group." These are clinical terms to me that indicate that he's working on gambling addiction treatment.

Q Okay. Is that it?

A "Kevin asks to stay in group a few more weeks," which is a note from the therapist indicating that he needs to stay involved in treatment there. Okay.

Q But would you also agree that the majority of the notes are -- reflect a consumption with his legal issues and his impending court issues?

A Absolutely. Yes, I would agree with that.

Q All right. Thank you.

THE COURT: Do you want to make that an exhibit, the interview notes?

MS. BROWN: Yes. Let me mark those in.

THE COURT: Are -- they use them to refresh his recollection so it should be marked. It'll be Exhibit 2.

BY MS. BROWN:

Q Now, I'd like to move on to, you saw in the PSR that Dr. Hunter had his diagnosis and prognosis and course of the defendant and he diagnosed his depression as secondary to his legal issues. That was his opinion. All right. And your diagnosis, as you testified earlier, is that his depression, in addition to his social anxiety, go hand in hand with his compulsive gambling, in fact may have fed into that or somehow caused that, correct?

A Correct. That's what's caused the -- they're together so they feed off each other.

Q All right. So the two of you don't -- don't agree on that?

A I haven't spoken to him about it but on paper it would appear that way, yes.

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Q On paper you don't. But you obviously would have to agree that The Problem Gambling Center treated him longer and more intensively than your one meeting?
A Yes.
Q Correct?
A Correct.
Q And I did mean to ask you, did you independently test Mr. McAuliffe or did you rely on the tests that were administered previously in your DSM-IV pathological gambling?
A To -- yeah, so I independently tested him.
Q So his answers were different?
A Yes.
Q So on your test he scored 10 out of 10 and on the other test he scored five out of 10?
A Correct.
Q He provided different answers?
A Correct.
Q Okay. Now -- and Dr. Hunter did not diagnose Mr. McAuliffe as having a social anxiety at all. That wasn't part of the diagnosis? You said he had no other conditions other than secondary depression due to his legal situation?
A Mm-hmm. So are you asking how I came to that diagnosis?
Q No, I think -- I think you -- well, I don't know that you explained how you came to the diagnosis. How did you?

A So in the course of the interview with Father McAuliffe, if I detected signs and symptoms that made me think that perhaps a social anxiety disorder was present. So I administered what's called a Liebowitz Social Anxiety Scale which is a diagnostic tool we use to assess for social anxiety, specifically for social anxiety. His total score on that was on the -- on the higher range than normal. So that's how I came to use that diagnosis for social anxiety disorder.

Q But you concluded it had been there along with the depression for many years?

A Correct.

Q Well, the fact that on December 2nd Mr. McAuliffe may have been feeling a high measure of social anxiety doesn't necessarily tell you that he had experienced that for many years other than his self-reporting, does it? That test doesn't tell you that, does it?

A Right. No, the test tells you symptoms not only how people feel right there in the moment but it would have been from lifetime. And then it's corroborated, of course, with self-report and history and as -- and again, that diagnosis is made against the criteria that we have in the DSM-IV.

Q Well, you would have to, I would imagine, look at other -- again objective measures. I mean once again the MMPI may have been useful for measuring social anxiety and depression.

You said earlier that was a useful tool --

A Mm-hmm. Correct.

Q -- that wasn't performed.

A Correct.

Q You are aware, I'm sure, of the enormous media attention that is over this case and over Mr. McAuliffe, of course, correct?

A Correct.

Q One would expect that under the circumstances any individual would experience a tremendous amount of social anxiety, wouldn't you?

A I would expect that but some of the elements of social anxiety on the questionnaire aren't necessarily going to be driven by a court case or by a current situation. They're livelong symptoms such as using the phone or being --

Q He's afraid of using the phone, is that what you're saying?

A Well, as an example one of the questions on the -- on the Liebowitz Social Anxiety Scale --

Q Well, more specifically to him what -- cause I don't have the test, so --

A Right. Okay.

Q -- that you administered so how did you arrive at your conclusion?

A Basically from the way Father McAuliffe tells his life

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story and his life narrative of repeated patterns of social isolation, preferring to be alone, describing periods of avoiding things in public or avoiding certain things where he could be in the eye of public scrutiny. And so the first thing I would ask is, well, wait a minute, you're a priest. How can you be a priest and that's a most public profession of all, how can this be? And oftentimes we see this is that social anxiety, you know, patients suffer quietly from these feelings of isolation and fears of scrutiny and they can do their job to a certain degree but they still have those symptoms that they endure throughout the day.

THE COURT: I'm going to give you five more minutes. Are you about finished with him?

MS. BROWN: I'm close here. Yes.

BY MS. BROWN:

Q Now the defendant reported that he -- let's see, I'm going to move forward. The pathological gambling is an impulse control disorder, isn't that right?

A Correct.

Q It's not a delusional disorder?

A No.

Q So the defendant, he knew that he was stealing, right?

A Yes.

Q And he said that he felt guilt and shame about doing it, right?

A Correct.
Q So all compulsive gamblers, they do not resort to stealing, right?
A Correct.
Q And one of the things they frequently do is try to stop or slow down on their own because they recognize they have a problem. You testified to that?
A That's not always true but sometimes, absolutely try and stop or slow down on their own, yes.
Q All right. And did he say that he did?
A Yes.
Q Now if they're sincere in wanting to get help and they're aware of counseling programs they can avail themselves of those, correct?
A Correct.
Q And you said earlier you talked about motivation and the motivation needs to be high enough for them to stop, correct?
A Correct.
Q Did you know that the defendant was -- had access to private counseling because you wrote in your report that he didn't have any means to get treatment or get counseling. Did you know that he access to private counseling through his insurance?
A Yes, I'm aware of that. Correct.

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Q Okay. So it's not -- it's not exactly accurate that he didn't have any way to get treatment?
A It's not the -- it's not accurate in the sense that he could access treatment and pay for it, yes. That part is correct, yes.
Q And you were aware that he was questioned on May 18th regarding the misappropriation of church funds and was able to stop gambling after that day you testified to that earlier, correct?
A Correct.
Q So apparently the investigation was sufficient to motivate him to stop gambling, correct?
A Correct.
Q Whereas before the guilt and the shame that he reported were not sufficiently motivating to stop him from gambling, correct?
A Correct.
Q You also made a statement in your report that all of the money that he stole was for gambling, do you recall that?
A I do recall that.
Q Do you know that that's not accurate?
A I understand that. Correct. Yes, that's not accurate.
Q Do you know that he also stole $50,000 that was for reasons completely unrelated to gambling addiction?
A Yes, that's correct.

Q So do you still stand by your statement that the only reason that he stole was for gambling addiction?

A Well, I stand by my opinion that the only reason he stole was to -- was either (a) from the symptom of gambling addiction, or (b) to cover up the cons -- or (b) to address the consequences of gambling addiction which would be to payoff debts or pay for other things that one can't afford because of the gambling addiction.

Q You also said that one of the things that his urge to gamble caused his theft and the money was easy there at the church or you testified something about that. But don't you find it significant or do you find it significant that he did not exhaust all of his own money to fund gambling, instead stealing is a first instinct from the church?

A Well, my understand was that he did not -- that he exhausted all liquid forms of money he had to him, that he could access right away that same day. But again my opinion in thinking about the situation is that he had a unique situation where he had access to large amounts of cash right there, right in front of him every day. And also that there was no other -- I don't know the specific and I'm not aware of any other person who is -- had access to -- I don't know who else had access to the box or who was watching the total amount of money in the box. But what's unique -- and this is where it's a little different from my other patients,

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there was cash, untraceable cash, that was in front of him every day.

Q So in other words it was -- he had a $30,000 investment account, did you know that?

A I was aware of that, yes.

Q Okay. All right. I'll move on. Now you say that he's responding well to Gambler's Anonymous and Gambler's Anonymous has been around for a long time, right?

A Correct.

Q Did you know also that he had -- there were -- there were Catholic -- the Catholic Church has centers in Philadelphia, in Michigan, in Houston and Toronto that are dedicated to addiction issues, including gambling. Are you familiar with those centers?

A I've heard of them but I'm not intimately familiar with them.

Q And did you know that he had arranged counseling for other priests --

A I was aware of that, yes.

Q -- due to his positions? All right, so are you saying that in your conversations with him he didn't seek counseling cause he didn't think it would help? He had just made the decision he didn't think it would help, is that right?

A My -- well, part of why he didn't seek help but the greater issue as I -- as I opinion -- in my opinion is that

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he didn't seek help because of the shame and the stigma and the embarrassment associated with coming out with this addiction publicly or even privately to other members of the community.

Q So based on that reason and based on the pattern here of the nine years of activity, would you agree that if he had not been caught by law enforcement he would have continued in this pattern and still have continued to defrauding the church to this very day?

A It's hard to predict what could have happened. That's certainly one possibility. He could have also had an intervention done by someone who noticed something. He could have, later on at some point realized I do need help and sought help volitionally. That's just all speculation.

MS. BROWN: That's all, Your Honor.

THE COURT: All right. Thank you.

MS. STANISH: Your Honor, I know you're -- you have a time schedule so I'll keep this very brief --

THE COURT: Sure.

MS. STANISH: -- if you would indulge me?

THE COURT: But I -- no, I do want to give you a chance for redirect. Go ahead.

MS. STANISH: Thank you, sir.

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REDIRECT EXAMINATION

BY MS. STANISH:

Q Dr. Fong, are you familiar with Dr. Hunter's --

A I am.

Q -- Problem Gambling Clinic?

A Yes, I am.

Q And what was introduced there was just a fraction of the therapy records from that clinic, is that correct?

A Correct.

Q And is -- does the group therapy, if you know, in Dr. Hunter's clinic, does that -- would he have access to those records?

A Who?

Q That's a bad question. Forget I asked it -- asked that.

A Okay.

Q Would Dr. Hunter -- would his --

COURT RECORDER: [unintelligible].

MS. STANISH: I'm sorry.

BY MS. STANISH:

Q Would Dr. Hunter rely on the group therapy records?

A No.

Q Would Dr. Hunter's be -- let me go back to the DSM. That document, it states he checked to the question, "Have you ever stolen anything?" He checked "No," is that correct?

A Correct.
Q Is your experience, in your clinic, when people who -- when people are suffering from addictions and they first come to your clinic, do they fill out these forms without any intervention by a professional?
A The way it happens at our clinic at UCLA we give them similar forms of this. We have 'em fill it out themselves and/or, you know, fill it out with a family member accompanying them. But one of the things that happens, particularly for people who are in need of treatment is they don't know what the signs and symptoms are of the disease or they're frankly still very much in denial and shame, don't want to admit to certain signs and symptoms that become revealed later on in the course of treatment.
Q And is it the case that that form could very well have been filled out on the very first day when he checked in without that kind of intervention or knowledge?
A Correct.
Q Is your -- what's your experience about people who have addictions when the FBI or somebody confronts them there for the very first time are -- are they at that point enlightened and know everything about their addiction?
A There's a wide variety of responses. Some people come in and they're just in shock and tell everything single thing and, you know, are completely and fully honest. Others have

struggled with acceptance of what the illnesses are. Others are completely ignorant of what they're signs and symptoms of their disease are. Oftentimes what we do in clinical practices that we rely less on formal diagnostic, quote, "criteria," and really just looked at signs, symptoms, and harm. It is undoubtedly at the time when Father McAuliffe entered treatment in June the harm was enormous. And -- but the same time the actual understanding and insight into what's -- the signs and symptoms of that disease are wide and variable in people when they show up for their first visit.

Q Let's -- let me refer your attention to the -- by the way you did know -- you did, in the PSI, you had the PSI and the government's sentencing memorandum, correct?

A Correct.

Q And so you were familiar with all the details of the offense, at least as related in those two documents?

A Correct.

Q So you did have more than just Father McAuliffe's explanation of the offense, you had the United States and the PS -- or the probation officer's information as well?

A Correct.

MS. BROWN: Correction, if I may. I didn't have -- she said my sentencing memo.

MS. STANISH: Pardon?

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MS. BROWN: He didn't have my sentencing memo, I had a plea agreement.

MS. STANISH: I'll correct that.

BY MS. STANISH:

Q Was -- you read the sentencing memorandum after you wrote your report, correct?

A Correct.

Q Was there anything in that document that alters your opinion that this man is a pathological gambler?

A No.

Q And with respect to the -- some $50,000, was that in connection with the credit cards that he used his credit cards to reimburse personal expenses?

A Okay, correct.

Q Okay. Does that -- does that make a difference to you that that card was used for personal experiences? Does that change your opinion?

A No.

Q Why?

A Because people need to spend money on things for themselves and, you know, against the larger picture of the other funds that were stolen to me, I don't know the exact context of that 50,000. Was it spent because of gambling debt or was it spent just because that's regular living expenses? Was it spent with -- what were the exact things

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purchased with those 50,000? I don't know those details.
Q So if it's personal things like travel or food, presents for people, would the use -- that 50,000 free up his other money for gambling purposes?
A Not likely, no.
Q The $30,000 that he had access -- or that was part of the investment funds, did he have free access to that money?
A My understanding is he did not.
Q And why is that, do you recall?
A I recall asking him and also speaking with you that it was not like a checking account or bank account or like in some -- it was some sort of investment in something that you just can't go in and pull out funds from.
Q The government -- the government has suggested that your testimony is purchased today. What's your response to that?
A I'm sorry, can you say that again.
Q The government seems to have suggested that your testimony today was purchased, but what's your response to that?
A Well, I mean, you know, I've heard that in several cases before. I mean my stance on this is as a -- to be as a medical expert is to be as objective and to answer the questions in a scientific fashion. My professional credibility is on the line, you know, if I just say something

the lawyer wants me to say then I'm not being a very good medical expert in the matter. So I wouldn't say that my opinions here were purchased or forced or restocked.

Q Is there anything about the inability or the lack of time to interview other people who knew Father McAuliffe, would that have made a difference in your opinion?

A I don't think so. I mean it's always nice -- it's always -- it's an idea -- in an ideal world we would interview every single person that came across Father McAuliffe in his life, you know, from childhood, all of that, but then there's just practicalities and really it's just not practical or possible to interview additional people and -- for a case like this in the time period that existed.

Q And how many people have you diagnosed in the past as pathological gamblers?

A A gross approximation, probably over a thousand.

Q And would you say that anything about Father McAuliffe is different from those thousand people that you diagnosed with gambling addictions?

A Well, I would say that of those approximately a thousand, you know, every person has a story that's different. There's some very clear similarities in their signs and symptoms and how their illness presents and there's a lot of unique factors about their case, but that's true in every single medical illness. I think again in

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Father McAuliffe's case I think what's unique is the severity of the condition that went untreated and unaddressed for so long. And I think one of the most unfortunate things is that that's where the consequences can happen and be undetected for years.

Q The government appears to be suggesting that Father McAuliffe is not a pathological gambler, that he's somehow making this all up.

A Mm-hmm.

THE COURT: You're a master at understatement.

MS. STANISH: Pardon me?

THE COURT: You're a master at understatement.

MS. STANISH: I'm trying to be kind.

[Laughter]

BY MS. STANISH:

Q What based on your experience, based on your testing of the doctor, what's your response to that allegation that he's making this all up?

A Well, it's my medical opinion that Father McAuliffe is a pathological gambler as determined by my evaluation and that's my medical opinion. I've also seen a lot of other cases similar where I said this person is not a pathological gambler based on them not meeting criteria or based on them telling me signs and symptoms that just don't add up. They just are false. You know, I would stake my professional

reputation on this and that's my diagnosis and I would stand by my diagnosis that I arrived at.

Q And the government also seems to be suggesting that he's just gambling for fun. Is there anything about your understanding of his gambling problems that would say this was not such a fun thing for him?

A I mean the way I describe it is that people gamble for two reasons, they gamble to have fun or they gamble to feel normal. Pathological gamblers don't gamble for fun, they gamble for escape, for -- to respond to the urges and the compulsivity that they have. It's not normal for someone for pathological gamblers -- what's not normal is that pathological gamblers come home and instead of going to sleep or wanting to go to sleep, instead they have intense urge, a craving, they -- a hunger for gambling that can't be satisfied. They don't want that hunger. Sometimes they do, sometimes they don't. But over time that hunger, that need, the compulsion overwhelms to the point where they can't escape from that. The only way to escape is to be gambling. So I've never met -- any of my patients who said I wanted to become addicted to gambling. Every single one of the patients have said, yeah, gambling is fun, entertaining for me in the beginning but at some point during my gambling career it tipped. It went over to become a problem and I couldn't stop. I -- that's the part that I couldn't manage

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and when harm came, I couldn't pull back. As much as I wanted to I could not do that.

Q One last question, I hope, in -- Ms. Brown asked you why wasn't the shame and guilt that Father McAuliffe experienced with his gambling, why wasn't that enough to make him wake up and smell the java that he had a gambling problem?

A It's one of the fascinating questions we have in our field is what makes people seek treatment. The shame and guilt that Father McAuliffe felt was suffering, to put it bluntly. And he suffered with it every day. Same thing I see all the time when I was in medical school and residency was why did some people with metastatic breast cancer not go to the doctor when the cancer spread all the way to their skin? It's a question that, you know, it's an individual question but we know that when recovery happens, it happens for all sorts of reasons. I think in this case it took the federal prosecution to elevate to make the conditions right to seek treatment.

If the prosecution never had occurred could there have been other conditions where treatment were to be sought? Absolutely. But in this case it just happened to be that that's when treatment was sought was when the Federal -- when the case came down.

MS. STANISH: I have nothing further. Thank you,

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Doctor.

THE COURT: All right. Thank you.

And you may -- we've got to put an end to this sometime so I'm going to cutoff the questioning of the witness at this time. All right?

Thank you for your time, sir. You may step down.

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PROCEEDINGS CONTINUED AT 11:20:17 A.M.

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